

Court of Common Pleas, Mahoning County  
120 Market Street  
Youngstown, Ohio 44503

**S U M M O N S O N C O M P L A I N T**

Rule 4 Ohio Rules of Civil Procedure

Case No. 2013 CV 00333

FREDERICK BANKS  
# 05711068  
NEOCC  
YOUNGSTOWN, OH 44505

-vs-

U S MARSHALL  
THOMAS D. LAMBROS FED BLDG & US  
COURTHOUSE  
125 MARKET STREET  
YOUNGSTOWN, OH 44503

TO: U S MARSHALL

THOMAS D. LAMBROS FED BLDG &  
US COURTHOUSE  
125 MARKET STREET  
YOUNGSTOWN, OH 44503

Defendant

To the above named defendant(s): (See attached complaint for additional parties)

You are hereby summoned that a complaint (a copy of which is hereto attached and made a part hereof) has been filed against by in this court by the plaintiff(s) named herein.

You are required to serve upon the plaintiff('s') attorney, or upon the plaintiff(s) if he/she/they has/have no attorney of record, a copy of your answer to the complaint within 28 days after service of this summons upon you, exclusive of the day of service. Said answer must be filed with this court within three (3) days after service on plaintiff(s) attorney.

The name and address of the plaintiff('s') attorney is as follows:

PRO SE

If you fail to appear and defend, judgment by default will be taken against you for the relief demanded in the complaint.

ANTHONY VIVO  
Mahoning County Clerk of Courts

February 11, 2013

By: N. Dascenzo  
Deputy Clerk



Summons issued to additional defendants:

M PUGH WARDEN  
TRANSCOR

IN THE DISTRICT / Superior Court For THE STATE OF OHIO  
Mahoning County

Frederick Banks, #05711068

Petitioner, NEILL  
2240 Hubbard Road  
Youngstown, OH 44505

Civil Division

United States Marshal  
Thomas D. Lambros Federal Bldg  
+ U.S. Courthouse  
125 Market Street, Room 337  
Youngstown, OH 44503;

Docket # 13CV333

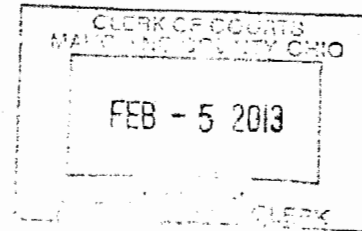
DURKIN

[ Evidentiary Hearing Requested ]

M. Pugh, Warden  
CCA Northeast Ohio Correctional  
Center  
2240 Hubbard Road  
Youngstown, OH 44505;

Transcor  
2240 Hubbard Road  
Youngstown, OH 44505;

Respondents.



Petition For A WRIT OF HABEAS CORPUS FOR  
A PERSON WHO IS BEING HELD IN CUSTODY IN  
VIOLATION OF THE OHIO CONSTITUTION AND  
OHIO STATE LAW

Petitioner Frederick Banks who is an American Indian ("Banks") prisoner files the foregoing Petition for a writ of Habeas corpus for a person who is being held in custody in violation of the Ohio Constitution and Ohio State Law and States under perjury as follows:

TO THE HONORABLE COURT;

1. Hello. My name is Frederick Banks. I am a 45 years old American Lakota Indian (Sioux) who is being held in custody in Mahoning County at CCA Northeast Ohio Correctional Center, 2240 Hubbard Road, Youngstown, Ohio 44505. The Custodian at this facility is Warden M. Pugh. I was arrested and brought here by U.S. Marshals and Transcor agents who maintain offices in Mahoning County.
2. My arrest, transfer and current detention are in violation of the Ohio Constitution and Ohio State Law.
3. The factual events are as follows.
4. I was released from prison and sent to a halfway house in Pittsburgh, PA called Renewal Inc on 11/13/12.
5. I searched for jobs and shortly thereafter I secured a job at a restaurant on Wood Street in downtown Pittsburgh. I opened and worked mostly from 1pm.



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6. Since I had my weekends and evenings free I signed on as a server at a security company. My shift started was 3pm - 11pm which I loved because it enabled me to keep my daytime restaurant job.

7. My plan in working two jobs was to save money so I could repair my house which had a roof leak so I could go on home confinement until I was released from the halfway house on May 13, 2013.

8. While returning from work on 1/15/2013 one of the halfway route monitors was blocking my entrance into the Center. When he didn't move aside at my request so I could enter my back was injured when the door swung and hit it. This monitor's name is Drew Scarborough.

9. The next day I was sent to medical who determined I just had a slight sprain. They prescribed medication which they told me would be available to me at the halfway house pull line.

10. A day later on 1/17/2013 I was arrested at the halfway house by two U.S. Marshals. Case Manager Supervisor Frank Declina stated to me before I left that they were investigating the injury incident.

11. The U.S. Marshals transported me to their Pittsburgh holding facility and Transfer officers transported me here to Mahoning County and lodged me into the M.C.C. under the custody of Warden M. Pugh.

12. Since being imprisoned in custody I have not been able to return to work and my jobs were taken from me unlawfully without cause or notice in violation of the Ohio Constitution in violation of U.S. Const I § 2 my right to property and due process. My property interest in my employment was violated which violated procedural due process. I was not compensated for this property loss and to add insult to injury Respondents violate my contract rights by forcing me to breach the contract I had between my employers by holding me in custody unlawfully in violation of the Ohio Constitution.

13. Accordingly, my confinement violates state law and I request to be immediately released from unlawful confinement. See *MacKey v. Cleveland State University*, 837 F. Supp. 1396.

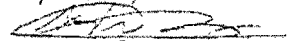
(U.S. Ohio 1993) (It is possible to state claim for violation of procedural due process stemming from deprivation of liberty interest; however, while term liberty interest extends beyond mere freedom from physical restraint, due process requires that employee be given opportunity to refute charges and clear his name, damage to reputation is only recognized as potential Constitutional deprivation requiring due process where damage is alleged to accompany government's denial of more tangible interest, such as property interest in employment. 97; *Baldwin*, Ohio Revised Code annotated, Bill of Rights, U.S. Const I § 2, note 5.1; see also *Timber v. Werner*, 375 F. Supp. 1349 (C.D. Ohio 1975) (depriving witness of due process because he lost for days of employment) Here, I have already lost sixteen days of employment and the compensation Director X.2 has denied me. *De*

14. In *In re Reynolds*, 20 F Cas 592 (No 571) The Court held that state courts have jurisdiction not only to issue a writ of habeas corpus for the purpose of inquiring into the cause of detention where one is claimed to be held under authority of the United States, the court may proceed to inquire into the truth of the facts alleged, and may discharge the petitioner if it finds the detention violates state law.
15. I respectfully submit to the Court how can I after serving nine years in prison get on my feet if I can't work and how can I work if my jobs are snatched away by respondents?
16. The Court should do what's right and just and release me so I can try to salvage the relationships I have built with my employers and return to work.
17. I also would like the Court to know that I am an American Indian, "The Indian Canon presumes Congressional intent to assist its wards to overcome the disadvantages our country has placed upon them. Indian Canon applies to statutes as well as treaties." *Montana v. Blackfoot Tribe* — US — ( ) ; *County of Yakima v. Yakima Indian Nation*, 502 US 251 (1992) Moreover, all statutes in a case involving an Indian are liberally construed, including rules, regulations, and Constitutional provisions. "The construction, instead of being strict, is liberal; doubtful expressions, instead of being resolved in favor of weak and defenseless people, who are wards of the nation, and dependent wholly upon its protection and good faith. This rule of construction has been recognized, without exception, for more than a hundred years." *Chester v. Trappp*, 224 U.S. 665, 675 (1912).
18. I'm also relying on Article II of, Sec 14 of the Northwest Ordinance of 1787 which states "The utmost good faith shall always be observed towards the Indians; Their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed. . ." USCA Constitution Organic Laws West Publishing 1987.
19. I shall end my Petition here and ask the Court to release me so I can restore my employment and Liberty so help me God. A hearing should be held.

### Prayer

WHEREFORE I Respectfully request that the Petition for a writ of Habeas Corpus be granted, an evidentiary hearing should be held, Petitioner should be released, Counsel should be appointed. Expires this 13th day of February, 2013 under the penalty for perjury.

Respectfully Submitted,



Fredrick Banks

#05711068

N.E.O.C.

2240 Hubbard Road

Youngstown, OH 44505

PETITIONER

IN THE DISTRICT / Superior Court for the State of Ohio  
Mahoning County

Frederick Banks,

Petitioner,

CIVIL Division

United States Marshal, et al,  
Respondents

ocket # \_\_\_\_\_

ORDER

AND NOW, this — day of —, 20—, to wit, upon consideration of the petitioner's petition for a writ of Habeas Corpus, and any reply thereto, it is hereby ordered that the petition is granted. Respondents are to immediately release Petitioner Frederick Banks from confinement.

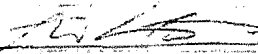
So ordered

By: \_\_\_\_\_

District / Superior Court Judge  
Mahoning County

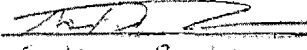
Verification

I hereby verify that all the statements herein are true and correct to the best of my information and belief under the penalty for perjury and falsification of sworn records to authorities on this 2nd day of February 2013.

  
Frederick Banks

Certificate of Service / E-log

I hereby certify under penalty that the person herein was filed and served true and correct copy on this 2nd day of February, 2013, by handing a copy to the Coroner's office addressed and postage prepaid by mail delivery to the Clerk of Court, Civil Division, District / Superior Court, Mahoning County, 120 Market St., 2nd Fl., Youngstown, OH 44503.

  
Frederick Banks

IN THE DISTRICT SUPERIOR COURT FOR THE STATE OF OHIO,  
MAHONING COUNTY

Frederick Banks,

v. Rehner,

United States Marshal, et al.,  
Respondents.

Civil Action

Case # \_\_\_\_\_

MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner Frederick Banks ("Banks") moves the Court to proceed in Forma pauperis without prepayment in this action and represents as follows:


1. I have \$24.00 in my inmate account (attached is an inmate account statement from CCA)
2. I am not employed and without income.
3. I have not received additional monies from any source.
4. I do not have any accounts, my inmate statement is attached.
5. I have no dependents.
6. The \$24.00 I have to use to pay for my own personal hygiene while confined.
7. I am indigent and request to proceed in Forma pauperis.
8. I make these statements under the penalty for perjury to my best information and belief.

WHEREFORE, I respectfully request that the Motion to Proceed in Forma pauperis be granted.

Executed this 2nd day of February, 2013 under the penalty for

perjury

Respectfully Submitted,

  
Frederick Banks

#05711068

M.E.O.C.C.


2240 Hubbard Road

Youngstown, OH 44525

PETITIONER

Verification

I hereby verify that all statements herein are true and correct to the best of my information and belief under the penalty for perjury and falsification.

  
Frederick Banks



File Maintenance Batch Processing Accounting Inmate Modules Medical Reports Help

**Alerts: MEDICAL ISSUES**

**Name:** BANKS, FREDERICK HAMILTON **Agency ID#:** 05711063 **CCA #:** 1955959 **Unit A:** Pod 06

**Agency:** USMS WESTERN DISTRICT OF PA **Admit Date:** 01/16/2013 **Rel. Date:** 00/00/0000 **Cell:** 120

**ICAS:** **Admit Type:** SE **Bed:** 1

☒ Include Balance on Receipt ☒ Inmate Receipt ☒ Include Cost Recovery Disbursement ☒ Include Officer Signature Line

Trans Date/Time	Back Date/Time	Code	Switch	Trans Amount	Deposit From/Withdrawal To	Receipt	Check	Rev
01/25/2013 07:02		CO	2	11.50	COMMISSARY SUMMARY POSTING	27235516		
01/17/2013 10:18	01/16/2013 19:13	CS	1	35.75	cash	27150161	INTAKE	

*Certified*

Current Account Balance: \$24.25 Cost Recovery Balance: \$0.00

Add Delete Undelete Print Search Next

Receipt Check C/R Receipt Reverse Save Abort

Alias

Charges

Classify

Clothing

Commsy Hist

Ctry Lmt

Detainers

Education

Housing

ID's

Mail log

Physical

Property

Questions

QTY Restrict

Release

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Separates

Social

Status

Transaction

HxTrels

Visitation

